

## CHAPTER 140

### STATE MENTAL HEALTH AND DISABILITY SERVICES AND GOVERNANCE — CHILD IN NEED OF ASSISTANCE PROCEEDINGS, ADOPTION NOTICES AND HEARINGS, AND CONFINEMENT OF PERSONS FOUND INCOMPETENT TO STAND TRIAL

H.F. 471

**AN ACT** relating to mental health and disability services provided by the state and judicial procedures relating to child in need of assistance proceedings, adoptions, and the confinement of persons found incompetent to stand trial.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I STATE MENTAL HEALTH INSTITUTES — SPECIALIZATION

Section 1. [Section 226.1, subsection 2](#), paragraph a, subparagraph (1), Code 2023, is amended to read as follows:

(1) Treatment, training, care, habilitation, and support of persons with mental illness ~~or a substance abuse problem~~ including:

(a) Specialized treatment of behaviorally complex youth at a mental health institute located in Independence.

(b) Specialized treatment and security for adults ordered by the court into the custody of the state for the purposes of competency restoration, adults who have been acquitted of a crime by reason of insanity, and similarly situated adults at a mental health institute in Cherokee.

#### DIVISION II CHILD IN NEED OF ASSISTANCE — SAFETY PLANS — TEMPORARY REMOVAL

Sec. 2. [Section 232.79B, subsections 1, 2, and 3](#), Code 2023, are amended to read as follows:

1. For the purposes of [this section](#), “*safety plan*” means a short-term, time-limited agreement entered into between the department and a child’s parent or guardian designed to address signs of imminent or impending danger to a child identified by the department.

2. Upon the department’s determination that potential harm to a child may be mitigated by the development of a safety plan, the department may enter into a safety plan with the child’s parent or guardian.

3. A safety plan shall not be construed as a removal from parental or guardian custody absent a court order placing the child with a person or facility other than the parent or guardian who entered into the safety plan.

Sec. 3. [Section 232.95, subsection 4](#), Code 2023, is amended to read as follows:

4. If the court orders the child removed from the home pursuant to [subsection 2](#), paragraph “*a*” “*b*” or “*c*”, the court shall hold a hearing to review the removal order within six months unless a dispositional hearing pursuant to [section 232.99](#) has been held.

Sec. 4. [Section 232.102, subsection 10](#), Code 2023, is amended by striking the subsection.

#### DIVISION III MENTAL HEALTH AND DISABILITY SERVICES REGIONS — GOVERNANCE — CORE SERVICES — REPORT

Sec. 5. [Section 331.390, subsection 2](#), Code 2023, is amended by striking the subsection and inserting in lieu thereof the following:

2. The governing board shall comply with all of the following requirements:

a. Each member of the governing board shall have one vote.

b. The membership of the governing board shall not include employees of the department of health and human services or a nonelected employee of a county.

c. The membership of the governing board shall consist of the following:

(1) Members representing the boards of supervisors of counties comprising the region. Members representing the boards of supervisors for a region's counties shall not exceed forty-nine percent of the total membership of the governing board.

(2) One member who is an adult person who utilizes mental health and disability services or is an actively involved relative of such an adult person. This member shall be designated by the regional advisory committee formed by the governing board pursuant to paragraph "d".

(3) One member representing adult service providers in the region. This member shall be designated by the regional advisory committee formed by the governing board pursuant to paragraph "d".

(4) One member representing children's behavioral health services providers in the region. This member shall be designated by the regional children's advisory committee formed by the governing board pursuant to paragraph "e".

(5) One member representing the education system in the region. This member shall be designated by the regional children's advisory committee formed by the governing board pursuant to paragraph "e".

(6) One member who is a parent of a child who utilizes children's behavioral health services or who is an actively involved relative of such a child. This member shall be designated by the regional children's advisory committee formed by the governing board pursuant to paragraph "e".

(7) One member representing law enforcement in the region.

(8) One member representing the judicial system in the region.

d. The governing board shall have a regional advisory committee consisting of adults who utilize services or actively involved relatives of such adults, service providers, and regional governing board members.

e. The governing board shall have a regional children's advisory committee consisting of parents of children who utilize services or actively involved relatives of such children, a member of the education system, an early childhood advocate, a child welfare advocate, a children's behavioral health service provider, a member of the juvenile court, a pediatrician, a child care provider, a local law enforcement representative, and regional governing board members.

Sec. 6. [Section 331.397, subsection 4](#), Code 2023, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Outpatient competency restoration.

Sec. 7. [Section 331.397A, subsection 4](#), Code 2023, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Outpatient competency restoration.

Sec. 8. [Section 331.400](#), Code 2023, is amended to read as follows:

**331.400 Quarterly Annual reports.**

Beginning with the fiscal year beginning July 1, 2022 2023, the department shall deliver on a ~~quarterly~~ an annual basis a report to the general assembly that provides a summary of the status of implementing core services in each region, the accessibility of core services in each region, how each region is using the funding provided under [section 225C.7A](#), and recommendations for improvements to the mental health and disability services system in order to attain the outcome improvement goals set by the department consistent with the goals specified in the performance-based contracts under [section 225C.7A, subsection 2](#), paragraph "c", subparagraph (5).

DIVISION IV  
ADOPTION NOTICES — HEARINGS

Sec. 9. [Section 600.11, subsection 2](#), paragraph a, subparagraph (7), Code 2023, is amended by striking the subparagraph.

Sec. 10. [Section 600.11, subsection 2](#), Code 2023, is amended by adding the following new paragraph:

NEW PARAGRAPH. 0b. (1) At least twenty days prior to the adoption hearing, a copy of the order setting the adoption hearing shall be provided to siblings of the person to be adopted when either of the following applies:

- (a) The sibling and the person to be adopted have an existing relationship.
- (b) There is a court finding that ongoing contact with the person to be adopted is in the best interest of each sibling and the person to be adopted was a minor child when the parents of the person to be adopted had their parental rights terminated subsequent to the person to be adopted having been adjudicated a child in need of assistance.
- (2) Notwithstanding [subsection 3](#), a copy of the order setting the adoption hearing may be provided to a sibling via ordinary mail if the sibling's address is known. A copy of an order setting an adoption hearing sent to a sibling under ten years of age shall be addressed to the sibling's custodian or guardian.
- (3) This paragraph does not require a copy of the order setting the adoption hearing to be provided to any of the following:
  - (a) A person whose parental rights have been terminated with regard to the person to be adopted.
  - (b) Siblings who are placed with the sibling to be adopted at the time the court issued the order setting the adoption hearing.
  - (c) A previously adopted sibling, unless the siblings were the subjects of child in need of assistance or termination of parental rights proceedings that occurred at the same time.

#### DIVISION V CONFINEMENT OF PERSONS FOUND INCOMPETENT TO STAND TRIAL

Sec. 11. [Section 812.6, subsection 1](#), Code 2023, is amended to read as follows:

1. If the court finds the defendant does not pose a danger to the public peace and safety, is otherwise qualified for pretrial release, and is willing to cooperate with treatment, the court shall order, as a condition of pretrial release, that the defendant obtain mental health treatment designed to restore the defendant to competency. The costs of treatment pursuant to [this subsection](#) shall be paid by the mental health and disability services region for the county of the defendant's residency pursuant to [chapter 225C](#) regardless of whether the defendant meets financial eligibility requirements under [section 225C.62](#) or [225C.66](#).

Sec. 12. [Section 812.7](#), Code 2023, is amended to read as follows:

#### **812.7 Mental status reports.**

The psychiatrist or licensed doctorate-level psychologist ~~providing~~ evaluating the progress of the outpatient competency restoration treatment to of the defendant, or the director of the facility where the defendant is being held and treated pursuant to a court order, shall provide a written status report to the court regarding the defendant's mental disorder ~~within, methods used to restore competency to the defendant, the defendant's current abilities related to competency, and whether it appears the defendant's competency can be restored within a reasonable amount of time. The psychiatrist, psychologist, or director shall submit an initial report to the court no later than thirty days of after the defendant's placement pursuant to [section 812.6](#). The report shall also state whether it appears that the defendant can be restored to competency in a reasonable amount of time. Progress reports shall be provided to the court, and subsequent reports every sixty days or less thereafter after the submission of the initial report until the defendant's competency is restored or the placement of the defendant is terminated.~~

Sec. 13. [Section 812.8, subsections 1 and 3](#), Code 2023, are amended to read as follows:

1. At any time, upon a finding by a psychiatrist or licensed doctorate-level psychologist that there is a substantial probability that the defendant has acquired the ability to appreciate the charge, understand the proceedings, and effectively assist in the defendant's defense, the psychiatrist or licensed doctorate-level psychologist ~~providing~~ evaluating the progress of the defendant's outpatient treatment to the defendant or the director of the inpatient facility

shall immediately notify the court. After receiving notice the court shall proceed as provided in [subsection 4](#).

3. At any time upon a finding by ~~a treating~~ an evaluating psychiatrist or licensed doctorate-level psychologist that there is no substantial probability that the defendant will be restored to competency in a reasonable amount of time, the psychiatrist or licensed doctorate-level psychologist ~~providing~~ evaluating the defendant's outpatient treatment ~~to the defendant~~ or the director of the inpatient facility shall immediately notify the court. Upon receiving notification, the court shall proceed as provided under [subsection 4](#).

#### DIVISION VI CONFORMING CODE CHANGES

Sec. 14. [Section 256.25, subsections 2 and 3](#), Code 2023, are amended to read as follows:

2. A school district, which may collaborate and partner with one or more school districts, area education agencies, accredited nonpublic schools, nonprofit agencies, and institutions that provide children's mental health services, located in mental health and disability services regions providing children's behavioral health services in accordance with [chapter 331 225C, subchapter III VII, part 6](#), may apply for a grant under this program to establish a therapeutic classroom in the school district in accordance with [this section](#).

3. The department shall develop a grant application and selection and evaluation criteria. Selection criteria shall include a method for prioritizing grant applications submitted by school districts. First priority shall be given to applications submitted by school districts that submitted an application pursuant to [this section](#) for the previous fiscal year. Second priority shall be given to applications submitted by school districts that, pursuant to [subsection 2](#), are collaborating and partnering with one or more school districts, area education agencies, accredited nonpublic schools, nonprofit agencies, or institutions that provide mental health services for children. Third priority shall be given to applications submitted by school districts located in mental health and disability services regions providing behavioral health services for children in accordance with [chapter 331 225C, subchapter III, part 6 VII](#). Grant awards shall be distributed as equitably as possible among small, medium, and large school districts. For purposes of [this subsection](#), a small school district is a district with an actual enrollment of fewer than six hundred pupils; a medium school district is a district with an actual enrollment that is at least six hundred pupils, but less than two thousand five hundred pupils; and a large school district is a district with an actual enrollment of two thousand five hundred or more pupils.

#### DIVISION VII CODE EDITOR DIRECTIVE — MENTAL HEALTH AND DISABILITY SERVICES CODE TRANSFERS

Sec. 15. CODE EDITOR DIRECTIVE.

1. The Code editor is directed to make the following transfers:

- a. [Section 331.388](#) to section 225C.55.
- b. [Section 331.389](#) to section 225C.56.
- c. [Section 331.390](#), as amended in this Act, to section 225C.57.
- d. [Section 331.391](#), as amended in this Act, to section 225C.58.
- e. [Section 331.392](#) to section 225C.59.
- f. [Section 331.393](#) to section 225C.60.
- g. [Section 331.394](#) to section 225C.61.
- h. [Section 331.395](#) to section 225C.62.
- i. [Section 331.396](#) to section 225C.63.
- j. [Section 331.396A](#) to section 225C.64.
- k. [Section 331.397](#), as amended in this Act, to section 225C.65.
- l. [Section 331.397A](#), as amended in this Act, to section 225C.66.
- m. [Section 331.398](#) to section 225C.67.
- n. [Section 331.399](#) to section 225C.68.
- o. [Section 331.400](#), as amended in this Act, to section 225C.69.

2. The Code editor shall correct internal references in the Code and in any enacted legislation as necessary due to the enactment of this section.

3. The Code editor may add a new subchapter to [chapter 225C](#) preceding [section 225C.55](#) entitled “MENTAL HEALTH AND DISABILITY SERVICES — REGIONAL SERVICE SYSTEM — CHILDREN’S BEHAVIORAL HEALTH SYSTEM”.

Approved June 1, 2023